



Signed and Filed: November 15, 2019

Dennis Montali

DENNIS MONTALI
U.S. Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA

In re:) Bankruptcy Case
PG&E CORPORATION,) No. 19-30088-DM
- and -) Chapter 11
PACIFIC GAS AND ELECTRIC COMPANY,) Jointly Administered
Debtors.)
Date: October 7, 2019
☐ Affects PG&E Corporation) Time: 10:00 AM
☐ Affects Pacific Gas and) Place: Courtroom 17
Electric Company) 450 Golden Gate Ave.
☒ Affects both Debtors) 16th Floor
San Francisco, CA
* All papers shall be filed in)
the Lead Case, No. 19-30088 (DM).)

ORDER GRANTING FEE EXAMINER'S MOTION TO APPROVE FEE PROCEDURES

On May 28, 2019, this court entered an order appointing Bruce A. Markell as the Fee Examiner in these chapter 11 cases. In accordance with that order, the Fee Examiner filed a Notice of Terms of Protocol Regarding Submission of Fee Applications on August 30, 2019 ("Protocol") (dkt. 3762). On September 19, 2019, the Fee Examiner filed the underlying Motion to Approve

1 Fee Procedures ("Fee Procedures Motion") (dkt. 3950) seeking
2 court approval of procedures set forth in the Protocol. Nine
3 law firms filed a joint response (dkt. 4064) and Milbank LLP
4 (dkt. 4050) filed a separate response opposing several material
5 terms of the Protocol and the Fee Procedures Motion. The United
6 States Trustee ("UST") filed a response (dkt. 4025) largely
7 supporting the Fee Procedures Motion, which The Utility Reform
8 Network (dkt. 4475) joined.

9 After issuing a tentative ruling on October 6, 2019, the
10 court held a hearing on the Fee Procedures Motion in support of
11 the Fee Examiner's motion to approve fee procedures (dkt. 3950)
12 the following day. The court encouraged the Fee Examiner and
13 those parties responding to the Protocol and Fee Procedures
14 Motion to meet and confer to attempt to resolve their disputes
15 as to the terms of proposed Protocol.

16 On October 24, 2019, the Fee Examiner filed a reply (dkt.
17 4475) indicating that the parties had negotiated the terms of a
18 revised protocol, thereby addressing all issues except the
19 ability of professionals to bill for non-working travel. On the
20 same date, Debtors filed a copy of the Revised Protocol and a
21 red-lined version of the Revised Protocol (dkt. 4473). Section
22 5.1.8 (Travel Billing) provides two alternates:

23 Alternate Provision 1: Non-working travel time is
24 compensable at 50% of the Biller's standard hourly rate.

25 Alternate Provision 2: Non-working travel time is
26 compensable as provided in the existing Local Guidelines
and Court Guidelines.

27 (Dkt. 4473-1 at ECF pg. 10).
28

1 The court's position on nonworking travel time has been
2 published and in place for over eighteen years. Consistency and
3 predictability are important and will not be disturbed absent
4 good reason. All employed professionals took on their
5 assignments in these cases with knowledge or at least notice of
6 the court's requirements in this area. None sought relief at
7 the outset of their employment. Those who chose to adopt a 50%
8 non-working travel time protocol did so at their own risk.

9 "Better to ask forgiveness than permission" will not carry the
10 day. The Court will not deviate from its existing Practices &
11 Procedures, and will allow only two hours to be billed for non-
12 working airplane travel time. See *PRACTICES AND PROCEDURES IN*
13 *JUDGE MONTALI'S COURT* (July 2018) at III(I), page 12 (available
14 at [http://www.canb.uscourts.gov/procedure/montali/judge-](http://www.canb.uscourts.gov/procedure/montali/judge-montalis-practices-and-procedures)
15 [montalis-practices-and-procedures](http://www.canb.uscourts.gov/procedure/montali/judge-montalis-practices-and-procedures)).

16 In light of the foregoing, and good cause appearing
17 therefor, it is hereby ORDERED that:

- 18 1. The Fee Examiner's Motion to set Fee Procedures is
19 granted as provided herein.
- 20 2. As to any currently pending interim fee application
21 (defined as any interim fee application filed before
22 November 15, 2019):
 - 23 a. Only the Fee Examiner shall have authority to set
24 a hearing date, and such dates shall be set under
25 the provisions of Paragraph 9 of the Order
26 Appointing Fee Examiner, i.e., after a final
27 report, in coordination with Debtors' counsel,
28 and grouped to advance judicial economy.

1 b. If a fee applicant and the Fee Examiner have
2 reached a compromise, a hearing should be set on
3 the same basis and be coordinated with other fee
4 hearings, so that hearings are grouped to advance
5 judicial economy.

6 3. As to future cycles of interim fee applications, the
7 following procedures shall be implemented;

8 a. Interim fee applications shall be considered
9 every four months, as provided for in the Order
10 [Establishing] Procedures for Interim
11 Compensation and Reimbursement of Expenses of
12 Professionals entered on February 28, 2019 (dkt.
13 701). The next deadline to file an interim fee
14 application shall be March 15, 2020, and future
15 interim applications may be filed at four-month
16 intervals. If an interim fee application is
17 filed after the deadline, it will be deemed filed
18 at the next interval. Each application will
19 cover fees and expenses incurred through the end
20 of the second full month preceding the deadline.

21 b. In the discretion of the Fee Examiner, the
22 hearing dates on the interim applications will be
23 grouped into three blocks as follows:

- 24 i. The "core" debtors' counsel and committee
25 counsel (Keller Benvenutti, Weil Gotshal,
26 Cravath, Milbank, and Baker Hostetler);
27 ii. Debtors' other legal counsel subject to fee
28 examination; and

1 iii. Non-legal professionals.

- 2 4. The Fee Examiner will determine when each block is set
3 for hearing, attempting to do so in a manner
4 respecting judicial economy and the efficient use of
5 Fee Applicants' time. The Fee Examiner may set each
6 block on a different day. The goal is to group
7 applications such that duplication of effort can be
8 more easily detected (if it exists), and to also
9 spread out the work of the Fee Examiner and his
10 limited staff.
- 11 5. Any Revised Protocol agreed to by the parties should
12 provide "Non-working travel time is compensable as
13 provided in the existing Local Rules and Court
14 Guidelines."

15 ****END OF ORDER****